

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

D'ARRIGO BROS. CO. OF NEW YORK,  
INC.,

Plaintiff,

-against-

ABDALLAH HOLDINGS INC., et al.,

Defendants.

23-CV-08560

ORDER


ARUN SUBRAMANIAN, United States District Judge:

Plaintiff filed an *ex parte* motion for a temporary restraining order. Dkt. 7. There is no showing in the materials filed with the motion as to why immediate *ex parte* relief is warranted. Plaintiff has had issues with defendants' payments since the spring and has repeatedly contacted them about those payments. *See* Dkt. 10 ¶¶ 13–14. Other than the fact that Plaintiff can't get paid and has some evidence of a lack of liquidity (issues Plaintiff has known about for several months); and can't get a response from Defendants (which has persisted "for weeks"), there is no additional showing of a recent change in circumstances demonstrating a threat of the dissipation of assets so urgent that Defendants can't even be given notice and a chance to respond to the motion, even if on an expedited timeframe. Plus, Plaintiff's proposed order does not only preserve the status quo, as it suggests. Instead, it requires defendants, among other things, to "supply to Plaintiff's attorney ... the most recent balance sheets, profit/loss statements, accounts receivable reports, accounts payable reports, accounts paid record and income tax returns and bank statements with cancelled checks for the last 90 days." Plaintiff may ultimately be entitled to all this relief and more. But "[i]n our adversary system, *ex parte* motions are disfavored." *Ayestas v. Davis*, 138 S. Ct. 1080, 1091 (2018).

For these reasons, the Court orders Plaintiff to serve the Defendants with (by e-mail and other appropriate means): the complaint; the papers related to the motion for a temporary restraining order and preliminary injunction; and this Order by September 29, 2023. Defendants are ordered to appear and respond by Tuesday, October 3, 2023. Both parties should appear for a telephonic hearing on Wednesday, October 4, 2023, at 10 AM. The parties should dial in by calling (646) 453-4442 and entering the Phone Conference ID: 966 566 316, followed by the pound (#) sign. Of course, if significant circumstances that have come to light after the filing of the present motion provide further grounds for *ex parte* relief, Plaintiff may renew its request.

SO ORDERED.

Dated: September 28, 2023  
New York, New York

  
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ARUN SUBRAMANIAN  
United States District Judge